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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
DWIGHT GILCHRIST,)
)
Defendant.)
_____)

No. CR 06-538 SI

**STIPULATED MOTION TO STRIKE
SURPLUSAGE FROM INDICTMENT
(FED. R. CR. P. 7(d)) AND [PROPOSED]
ORDER**

Trial Date: April 7, 2008
Pretrial Conference: March 25, 2008

Pursuant to Federal Rule of Criminal Procedure 7(d), the Defendant and the United States, by and through their undersigned counsel, hereby jointly submit this stipulated motion to strike the words “in excess of \$1,000” from paragraph 12 (line 19) of the Indictment.

The basis for this motion is the parties’ acknowledgment that the language to be stricken is not an element of Counts 1-10, 18 U.S.C. § 656 (embezzlement), but merely relates to whether a violation is a felony or misdemeanor. The parties further agree that because Counts 1-6 of the Indictment do not allege amounts in excess of \$1,000, those charges are misdemeanors that each

STIP’D MTN TO STRIKE SURPLUSAGE
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1 carry a statutory maximum sentence of 12 months' imprisonment, a \$100,000 fine, one year of
2 supervised release, and a special assessment of \$25.

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4 DATED: March 18, 2008

Respectfully submitted,
JOSEPH P. RUSSONIELLO
United States Attorney

5
6 /s/
7 TRACIE L. BROWN
Assistant United States Attorney


8
9 DATED: March 19, 2008

10 /s/
11 ROBERT F. WAGGENER
Attorney for the Defendant

12
13 **[PROPOSED] ORDER**

14 Pursuant to the joint motion of the parties and Federal Rule of Criminal Procedure 7(d), IT
15 IS SO ORDERED.

16
17 DATED: March __, 2008

18 
19 THE HON. SUSAN ILLSTON
United States District Judge